

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
GENERAL METALS OF TACOMA,)
Appellant,)
vs.)
PUGET SOUND AIR POLLUTION)
CONTROL AGENCY,)
Respondent.)

PCHB No. 196

FINDINGS OF FACT,
CONCLUSIONS AND ORDER

This matter, the appeal of a \$250.00 civil penalty for an alleged outdoor burning violation of respondent's Regulation I, came before the Pollution Control Hearings Board (Walt Woodward, hearing officer) as a formal hearing in the offices of Burkey, Marsico, Rovai & McGoffin in Tacoma at 3:15 p.m., December 15, 1972.

Appellant did not appear although it had acknowledged a certified mail notice by the Pollution Control Hearings Board dated November 9, 1972 setting the formal hearing for the offices of Burkey, Marsico, Rovai & McGoffin in Tacoma at 3:00 p.m., December 15, 1972. Respondent

1 appeared through its counsel, Keith D. McGoffin. Eugene Barker, Olympia
2 court reporter, recorded the proceedings.

3 Witnesses were sworn and testified. Exhibits were offered and
4 admitted.

5 On the basis of testimony heard and exhibits examined, the Pollution
6 Control Hearings Board prepared Proposed Findings of Fact, Conclusions
7 and Order which were submitted to the appellant and respondent on
8 March 14, 1973. No objections or exceptions to the Proposed Findings,
9 Conclusions and Order having been received, the Pollution Control
10 Hearings Board makes and enters the following

11 FINDINGS OF FACT

12 I.

13 On September 14, 1972 an outdoor fire in the yard of General Metals
14 of Tacoma, Inc., 1919 Canal Street, Tacoma, Pierce County, emitted black
15 smoke for at least ten minutes.

16 II.

17 Section 9.02 of respondent's Regulation I makes it unlawful to
18 cause or allow an outdoor fire in a restricted area with a general
19 population density of 2,000 or more persons per square mile.

20 III.

21 Notice of Violation 5629 was served on appellant as a result of the
22 fire and, subsequently and in connection therewith, Notice of Civil
23 Penalty 453 was served on appellant in the sum of \$250.00. The civil
24 penalty is the subject of this appeal. Notice of Violation 5629 was the
25 second such notice served on appellant for its plant at 1919 Canal
26 Street, Tacoma, during 1972. No civil penalty was invoked for the first

27 FINDINGS OF FACT,
CONCLUSION AND ORDER

violation.

From these Findings, the Pollution Control Hearings Board comes to these

CONCLUSIONS

I.

Appellant was in violation of Section 9.02 of respondent's Regulation I on September 14, 1972.

II.

Notice of Civil Penalty 453 appears to be reasonable and in view of appellant's failure to appear at the hearing, the Board is unable to find otherwise.

Therefore, the Pollution Control Hearings Board issues this

ORDER

The appeal is denied and Notice of Civil Penalty 453, in the sum of \$250.00, is sustained.

DONE at Lacey, Washington this 14th day of June, 1973.

POLLUTION CONTROL HEARINGS BOARD

Walt Woodward
WALT WOODWARD, Chairman

W. A. GISSBERG, Member

James T. Sheehy
JAMES T. SHEEHY, Member

Mr. W. A. Gissberg, a member of this Board, not having participated in the hearing on this matter, declined to sign this Order.

FINDINGS OF FACT,
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